

## Town of Greece

# BOARD OF ZONING APPEALS MINUTES

May 4, 2010

General Information: Work Session: 6:30 pm. Meeting: 7:00 pm.

Roll Call: Albert F. Meilutis, Chairman Diana Christodaro Randy T. Jensen John J. Riley

Christopher A. Schiano, Deputy Town Attorney Ivana Frankenberger, Planning Assistant Mary Jo Santoli, Secretary to the Zoning Board

Absent: William F. Murphy

Pledge of Allegiance Additions/Deletions to the Agenda Announcements:

#### **OLD BUSINESS:**

**1. Applicant:** Heather Tortorici

**Location:** 4038 Mount Read Boulevard

Mon. Co. Tax No.: 060.54-3-1

**Zoning District:** R1-E (Single-Family Residential)

**Request:** A special use permit for a major home occupation (nail salon).

Sec. 211-11 C (2)(c)

#### Ms. Christodaro offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 4038 Mount Read Boulevard, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

- 1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 et seq., the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
- 2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
- 3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
- 4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
- 5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
- 6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
- 7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
- 8. The Environmental Analysis examined the relevant issues associated with the Proposal.

- 9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
- 10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
- 11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
- 12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
- 13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
- 14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

#### Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Vote:	Ms. Christodaro	Yes	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Mr. Murphy	Absent
	Mr. Riley	Yes		

Motion Carried

#### Ms. Christodaro then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Heather Tortorici, 4038 Mount Read Boulevard, Heather Tortorici appeared before the Board this evening requesting a special use permit for a major home occupation (nail salon), the findings of fact are:

This parcel is located at the intersection of Mount Read Boulevard and Legion Circle, with the actual dwelling and driveway fronting Legion Circle. The applicant testified that she has resided at this address for the last five years and for the past year-and-a-half she has been operating a nail salon from her home without realizing that she needed a special use permit from the Board of Zoning Appeals to do so. In response to a complaint, the Town's Code Compliance staff visited Ms. Tortorici's residence and witnessed the home occupation. After Ms. Totorici was made aware of the requirements for a home occupation, she immediately made a zoning application to the Town, had a courtesy inspection performed by

the Building Department and and has been working cooperatively with Town staff to secure the necessary permits required to make this a legal major home occupation.

The nail salon is located in an existing breezeway of the home, which is between the main home and the attached garage. It has a separate entrance and is set up for only one employee, being Ms. Tortoici. The hours of operation are: Mondays, Tuesdays and Wednesdays from 9:45 a.m. until 7:30 p.m.; Thursdays from 9:00 a.m. until 6:30 p.m.; Fridays and Saturdays from 9:00 a.m. until 5:00 p.m.; and closed on Sundays. There will be a maximum of 12 clients per day. The approximate time that a client is being worked on is 45 minutes to an hour. Unlike a hairdressing operation, there is no overlapping of client booking with "doing nails"; she will only have one client at a time.

The chemicals used for this business are only common household chemicals, which are consumables that will not result in any additional waste from the property. The applicant also has a salon air purifier that is utilized for ventilation purposes.

Parking for clients shall be in confined to the driveway. I would like to reiterate that while her address is Mount Read Boulevard, the driveway for the residence is actually located on Legion Circle, which is approximately four to five car lengths from Mount Read Boulevard. The household currently has two registered vehicles. Ms. Tortorici will instruct her clients that they will need to park in her driveway and not on the road. The applicant also testified that she is looking into the costs to extend her driveway in width to be able to accommodate additional cars. This will benefit the applicant in the long run and reduce any risk of an accident.

With regard to signage, the applicant currently does not do any advertising. She has agreed to not use her address in any advertising that she may do in the future. There will not be any signage outside of her home or on her home, thereby maintaining the residential character of the neighborhood.

The Town did receive two items of correspondence regarding this application. The next-door neighbor to the east on Legion Circle did not have any complaints or problems with the applicant running the nail salon from her home. A petition with 14 signatures from other neighbors in the area was also sent to the Town. These neighbors cited that they did not have any problems with this application except for the issue of parking within the right-of-way of Legion Circle. They did not want any clients to park on the street. I believe that the applicant has addressed these concerns with her testimony.

Based on the aforementioned information, documentation, testimony, and finding, pursuant to the authority conferred by New York State Town Law, Article 16, the request submitted by Heather Tortorici for a special use permit to operate a major home occupation for a nail salon on property located at 4038 Mount Read Boulevard, in an R1-E zoning district, hereby be and the same is approved and granted, subject to the following conditions:

- 1. The Applicant shall operate this nail salon or major home occupation in conformity with all details of the Proposal as presented in the written descriptions of the Proposal, as orally described at the Hearing, and as set forth herein. In the event of any conflict among the oral or written descriptions of the Proposal or the requirements or restrictions of this resolution, the Board of Zoning Appeals, in its sole discretion and judgment and without hearing, shall determine the resolution of such conflict.
- 2. The Applicant shall comply with all requirements of the Code of the Town of Greece, New York, Chapter 211, the town's zoning ordinance, or any variance granted therefrom. Failure to comply with these requirements may be grounds for revocation of this special use permit.

- 3. The maximum hours of operation shall be as referenced in the Findings of Fact.
- 4. The Applicant shall comply with all requirements of the Town's staff relative to local laws, ordinances, codes, rules, and regulations, and the Building Codes of New York State. Failure to comply with these requirements may be grounds for revocation of this special use permit.
- 5. Wherever this resolution refers to a specific law, ordinance, code, rule, or regulation, it shall be construed to include any superseding or succeeding authority.
- 6. Upon the sale or transfer of controlling interest in this major home occupation to any person or entity other than Heather Tortorici, a new application for a special use permit must be submitted to the Board of Zoning Appeals.
- 7. That there be no parking in the right-of-way of Legion Circle by clients during the aforementioned business hours.
- 8. That as offered to by the applicant, the driveway shall be extended in width to allow for at least one additional car parking space and should be done so before the end of this year's paving season, by November 1, 2010.

#### Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Vote: Ms. Christodaro Yes Mr. Jensen Yes Mr. Meilutis Yes Mr. Murphy Absent Mr. Rilev Yes

Motion Carried
Application Approved
With Conditions

#### **NEW BUSINESS:**

**1. Applicant:** Hazel Siddons

**Location:** 52 Parkway View

Mon. Co. Tax No.: 017.04-1-24

**Zoning District:** R1-E (Single-Family Residential)

**Request:** a) An area variance for an existing shed (10.0 ft. x 10.3 ft.;

104.0 sq. ft.) located in a (east) side yard, where accessory structures, including sheds, are permitted in rear yards only.

Sec. 211-11 E (3)

b) An area variance for an existing enclosed porch located approximately 5.0 ft. from an existing in-ground pool, instead

of the 10.0 ft. minimum required. Sec. 184-5 A (2)

#### Mr. Jensen offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 52 Parkway View, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

- 1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 et seq., the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5 (c) (10) & (12) of the SEQRA Regulations).
- 2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

#### Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Vote: Ms. Christodaro Yes Mr. Jensen Yes Mr. Meilutis Yes Mr. Murphy Absent

Mr. Riley Yes

**Motion Carried** 

#### Mr. Jensen then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Hazel Siddons, 52 Parkway View, Jill Slattery, Hazel Siddons's daughter, appeared before the Board of Zoning Appeals this evening representing her mother, who is home ill at this time, requesting an area variance for an existing shed (10.0 ft. x 10.3 ft.; 104.0 sq. ft.) located in a (east) side yard, where accessory structures, including sheds, are permitted in rear yards only; and an area variance for an existing enclosed porch located approximately 5.0 ft. from an existing inground pool, instead of the 10.0 ft. minimum required.

WHEREAS, Ms. Slattery appeared before us this evening and stated that the family has lived there since 1964. In or about 1966, they installed an in-ground pool, and in 1971 they put an enclosed porch on the rear of the home, which is covered. Twenty years ago they also put a shed in the side yard and on a four-corner block. We have asked the applicant if there would be a financial hardship in moving the shed to the rear yard and they stated, "Yes, there is a drainage problem currently from all the new construction of all the homes in the area," which causes the rear yard to have drainage problems. This would cause the shed to be moved in the back yard would definitely cause a problem; same thing with them gaining access to it. We did review the pool safety, Town Law #2 of 1990, with the applicant and stated that they were aware of all the situations; the pool also has a chain-link fence around the pool area. We also mentioned there be no jumping or diving from the enclosed porch for safety reasons. The applicant also stated that there are no children at the home as of now and that they would sign a Hold Harmless clause with the Town regarding the area variances for the shed and the enclosed porch.

WHEREAS, Mr. Chairman, an undesirable change will not be produced in the character of the neighborhood nor will it be a detriment to nearby properties should this variance be granted. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue and the requested area variance is not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and the alleged difficulty was self-created, which consideration is relevant to the decision of the Board, but shall not necessarily preclude the granting of this area variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board,

WHEREAS, I move to approve this application with the following conditions:

- 1. That this approval is for the life of the shed.
- 2. That the applicant's daughter signs a Hold Harmless clause with the town as Hazel Siddons's agent.

#### Seconded by Mr. Riley and duly put to a vote, which resulted as follows:

Vote: Ms. Christodaro Yes Mr. Jensen Yes

Mr. Murphy Mr. Meilutis Yes **Absent** Mr. Riley Yes

**Motion Carried** 

Application Approved With Conditions

2. Applicant: Zlatan Nadarevic

**Location:** 39 Rumson Road

Mon. Co. Tax No.: 046.20-7-1

**Zoning District:** R1-E (Single-Family Residential)

**Request:** An area variance for a proposed principal structure addition

 $(9.0 \text{ ft. } \times 14.0 \text{ ft.}; 126.0 \text{ sq. ft.})$ , to have a front setback of 21.0 ft., instead of the 30.0 ft. minimum required. Sec. 211-11

D (2), Table I

#### Mr. Riley offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 39 Rumson Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

- 1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 et seq., the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5 (c) (9) & (12) of the SEQRA Regulations).
- 2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

#### Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Vote: Ms. Christodaro Yes Mr. Jensen Yes

Mr. Meilutis Yes Mr. Murphy Absent Mr. Rilev Yes

**Motion Carried** 

#### Mr. Riley then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Zlatan Nadarevic, 39 Rumson Road, Zlatan Nadarevic appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed principal structure addition (9.0 ft.  $\times$  14.0 ft.; 126.0 sq. ft.), to have a front setback of 21.0 ft., instead of the 30.0 ft. minimum required.

WHEREAS, the applicant testified that he has lived at this home approximately four years and the parcel in question is a corner lot that sits at the corner of Rumson Road and Biscayne Drive. The purpose of this addition is an enhancement of the applicant's main entrance of the house, main entrance being the entrance that the family utilizes on a daily basis. The driveway and the garage, both come off Biscayne Drive, and this addition will serve as a foyer/mud room and an overall improvement to the entrance way that the family utilizes. The design of their proposed addition appears in keeping with the character of the general neighborhood. It is my opinion that this is not a substantial variance request. It should also be noted that this is a single-story addition. The applicant also testified that the exterior finish of the project will match the current existing home.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board.

NOW, THEREFORE, I move to approve the application as submitted.

#### Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Vote: Ms. Christodaro Yes Mr. Jensen Yes Mr. Meilutis Yes Mr. Murphy Absent Mr. Riley Yes

Motion Carried
Application Approved

**3. Applicant:** Charles A. Cimino

**Location:** 209 Nantucket Road

**Mon. Co. Tax No.:** 074.15-7-14

**Zoning District:** R1-E (Single-Family Residential)

**Request:** An area variance for an existing deck (approximately 84.0 sq.

ft.) located in a front yard, where accessory structures, including decks, are permitted in rear yards only; and for said deck to have a front setback of approximately 31.8 ft. (measured from the right-of-way line of Nantucket Road), instead of the 35.0 ft. minimum established by the neighborhood average. Sec. 211-11 D (2), Table I; Sec. 211-

11 E (1), Table I; Sec. 211-11 E (3)

#### Ms. Christodaro offered the following resolution and moved for its adoption:

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 209 Nantucket Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

- 1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 et seq., the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5 (c) (10) & (12) of the SEQRA Regulations).
- 2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEORA.

#### Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Vote:Ms. ChristodaroYesMr. JensenYesMr. MeilutisYesMr. MurphyAbsent

Mr. Riley Yes

**Motion Carried** 

#### Ms. Christodaro then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Charles Cimino, 209 Nantucket Road, Mr. and Mrs. Cimino appeared before the Board of Zoning Appeals this evening, requesting an area variance for an existing deck (approximately 84.0 sq. ft.) located in a front yard, where accessory structures, including decks, are permitted in rear yards only; and for said deck to have a front setback of approximately 31.8 ft. (measured from the right-of-way line of Nantucket Road), instead of the 35.0 ft. minimum established by the neighborhood average.

WHEREAS, the applicant testified that he has lived at the residence for approximately eight years and to the best of his knowledge the deck is fifteen years old. He is in the process of selling the property and needs to get this variance in order to complete that sale; he is basically cleaning up the property from the previous owner. The deck is made of a wood material and it is in good condition. In this neighborhood, decks in the front yards are not uncommon and the applicant also testified that it would be a financial hardship to either remove or move the deck to come into compliance with the setback.

WHEREAS, in my opinion an undesirable change will not be effected in this neighborhood; it is an attractive deck and it complements the home and it is not uncommon in this area. The benefit to the applicant cannot be achieved by some other method, as evidenced by his testimony and the requested area variance is not substantial, it's less than four feet difference from the neighborhood average with regard to the setback. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, it has existed here for approximately for 15 years without any problems, and the alleged difficulty in this case was not self-created because it was put on by the previous owner.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board.

NOW, THEREFORE, I am going to move to approve the application with one condition, and that is just that it is for the life of the deck.

#### Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Vote:Ms. ChristodaroYesMr. JensenYesMr. MeilutisYesMr. MurphyAbsent

Mr. Riley Yes

Motion Carried
Application Approved
With Condition

Page 12

**4. Applicant:** LiDestri Foods, Inc.

**Location:** 1000 Lee Road

Mon. Co. Tax No.: 089.04-1-2.101/642

Zoning District: IG (General Industrial)

Request: a) An area variance for a proposed (north side) second

building-mounted sign, with a sign area of 66.0 sq. ft., instead of the one (1) 120.0 sq. ft. building-mounted sign permitted. Sec. 211-52 B (2)(a) & Sec. 211-52 B (2)(c)[1], Table VII

b) An area variance for a proposed second freestanding sign, with a sign area of 106.0 sq. ft., instead of the one (1) 120.0 sq. ft. building-mounted sign permitted. Sec. 211-52 (1)(a)[2]

& Sec. 211-52 B (1)(d), Table VI

On a motion by Mr. Meilutis and seconded by Ms. Christodaro, it was resolved to continue the public hearing on this application until the meeting of June 1, 2010, in order to give staff time to re-advertise.

Vote: Ms. Christodaro Yes Mr. Jensen Yes Mr. Meilutis Yes Mr. Murphy Absent

Mr. Riley Yes

Motion Carried
Application Continued

Until Meeting of June 1, 2010

#### **APPROVAL OF MINUTES**

#### APPROVAL OF BOARD OF ZONING APPEALS MEETING MINUTES

Mr. Meilutis put forth a motion to execute several sets of minutes. He has read them and to the best of his recollection, they adequately reflect our meetings and therefore requests that the Board give to him the authority to approve the minutes of February 2, 2010, March 2, 2010, March 16, 2010, April 6, 2010 and April 20, 2010.

Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:

Vote: Ms. Christodaro Yes Mr. Jensen Yes Mr. Meilutis Yes Mr. Murphy Absent

Mr. Riley Yes

Motion Carried Minutes Approved

#### **ADJOURNMENT**

The meeting was adjourned at 7:55 p.m.

The Board of Zoning Appeals of th State of New York, rendered the above dec		Greece,	in the	County	of I	Monroe	and
Dated:							
	Albert F. Meilutis, Chairman						

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